



Summary of Criminal Prosecutions

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FISCAL YEAR: 2014

1. PRINCIPAL DEFENDANT: Pacific Tank Cleaning Inc.

S.D. California 14CR0395-H

2. DEFENDANT: Jorge Luquin

S.D. California 14CR394-MDD

<http://www.justice.gov/usao/cas/press/2014/cas14-0528-pacificTank.html>

On May 28, 2014, a San Diego tank cleaning firm was sentenced by U.S. District Judge Marilyn L. Huff to pay a \$50,000 fine for failing to report an acid spill that occurred at its facility.

Pacific Tank Cleaning (PTC), a family-owned business that employs 85 people on three shifts, is engaged in the business of cleaning industrial tanks and piping, primarily aboard ships. On Monday, March 28, 2011, in the former PTC yard on National Avenue in San Diego, the valve on a 275-gallon plastic container (tote) failed, spilling the contents of the tote onto the ground at the facility. The liquid pooled on the concrete at the facility, and flowed out a hole at the base of the wall. The fluid ran down an alley at the rear of the facility (etching the concrete) and pooled along the curb in front of a nearby elementary school.

Two days later a nearby business reported the spill. The San Diego Fire Department Hazardous Incident Response Team (HIRT) and the San Diego County Department of Environmental Health Service, Hazardous Materials Management Division (DEH) responded to the scene, and closed the affected streets and alley. The responders traced the spill from the school, down the alley to the PTC facility. Samples of the liquid pooled in the street and samples of the soil just outside the PTC facility were found to be extremely acidic, with a pH of less than 1. Measured pH values are typically between 14 (most basic) to 0 (most acidic). Pure water has a pH of about 7.

One of the HIRT responders contacted a PTC vice president at the site. The vice president falsely advised that there were no acids at PTC, only contaminated water. The HIRT responder asked to inspect the facility and observed multiple large totes containing a product called Dynamic Descaler which contains hydrochloric acid. There was no evidence of any spill on the grounds of the PTC facility. Although PTC denied that they were the source of the spill, PTC contacted a clean-up company that afternoon. The clean up company washed and vacuumed the remaining liquid from the street and alley and properly disposed of the vacuumed material, at a cost of \$17,000 (which was reimbursed to PTC by their insurance carrier).

Subsequently, the criminal investigation revealed that an employee on the first shift at PTC had been directed by Production Manager Jorge Luquin to use the contents of a 275 gallon tote to clean piping that was in the PTC yard that had come from a Navy ship. On March 28, 2011, the first shift employee discovered that the valve on the tote of used acid had failed, spilling the contents. The first shift employee reported the spill to Luquin, and advised Luquin that he had seen liquid in the alley.

Luquin ordered the PTC employees to clean up the spill on the site. PTC employees rinsed the area and vacuumed the liquid from the yard, placing it in another tote at the facility labeled "oily water" that was later sampled by DEH (and relabeled by health officials as "corrosive"). Although PTC had a Health and Safety Manager, that individual was not aware of the spill until the HIRT response two days later. The acid spill

involved well over the reportable quantity of a hazardous substance (100 pounds of a corrosive liquid), but upon discovery of the release, PTC did not report it to the National Response Center, or any other governmental agency, as required by law.

PTC pled guilty in February. In addition to the criminal fine, PTC was placed on probation for three years, assessed a \$400 penalty, and also ordered to reimburse DEH \$11,238.60 for the costs of responding to the spill.

Pacific Tank Cleaning Production Manager Jorge Luquin pled guilty to the Unlawful Discharge of Pollutants in February of 2014. In pleading guilty, Luquin admitted that although he was aware the tank had leaked, he made no effort to contain the spill outside the facility, which allowed the acid to enter the storm drain system and ultimately the waters of the United States.

February 20, 2014

Pacific Tank Cleaning Inc. was charged with violating 42 USC 9603 (b)(3)

Defendant pled guilty.

CITATION: 42 USC 9603 (b)(3)

May 27, 2014

Pacific Tank Cleaning Inc. was sentenced to 36 months of probation and ordered to pay a \$50,000 fine and \$11,239 in restitution.

July 24, 2014

Jorge Luquin was sentenced to pay a \$5,000 fine and will complete a three-year term of probation.

CITATION: 33 U.S.C 1319(c)(1)(A)

STATUTE:

- Clean Water Act (CWA)
- Cleanup / Superfund (CERCLA)

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LAST UPDATED ON FEBRUARY 11, 2019